

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

MEMORANDUM & ORDER
08-CR-655 (JS)

CHRISTIAN GEROLD TARANTINO,

Defendant.

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APPEARANCES:

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SEYBERT, District Judge:

Pending before the Court is the Defendant's request to close the upcoming Mastrangelo hearing to the press and public (Docket Entry 147). The Government opposes this request. For the following reasons, the Defendant's request is DENIED.

"Trial courts are obligated to take every reasonable

measure to accommodate public attendance at criminal trials.” Presley v. Georgia, __ U.S. __, 130 S. Ct. 721, 725 (2010). “The public has a right to be present whether or not any party has asserted the right.” Id. at 724. Although the public’s right of access is not absolute, the Defendant has not shown that closure is warranted because he has not established a substantial risk of prejudice or that reasonable alternatives to closure are inadequate to safeguard his right to a fair trial. See Press-Enterprise Co. v. Superior Court of California for Riverside, 478 U.S. 1, 14, 106 S. Ct. 2735, 2743, 92 L. Ed. 2d 1 (1986); see also El Vocero de Puerto Rico (Caribbean Intern. News Corp.) v. Puerto Rico, 508 U.S. 147, 151, 113 S. Ct. 2004, 2006, 124 L. Ed. 2d 60 (1993).

The Defendant speculates that public reports concerning the Mastrangelo hearing will taint the jury pool by airing the Government’s most damaging evidence, much of which will be previewed at the hearing. (Docket Entry 147 at 2-3.) “[T]his risk of prejudice does not automatically justify refusing public access to hearings The First Amendment right of access cannot be overcome by the conclusory assertion that publicity might deprive the defendant” of his right to a fair trial. Id. at 15. The Defendant’s concerns here are more than conclusory, but the Court nevertheless finds they fall short of showing a substantial risk of prejudice. Further, the

Defendant's right to a fair trial will be protected through voir dire, where the Court will screen, as appropriate, potential jurors with prior knowledge of this case. Id. ("Through voir dire, . . . a court can identify those jurors whose prior knowledge of the case would disable them from rendering an impartial verdict.").

Accordingly, the Defendant's request to bar the press and public from the upcoming Mastrangelo hearing is DENIED.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: February 8, 2011
Central Islip, New York